

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

EXMARK MANUFACTURING COMPANY
INC.,

Plaintiff,

vs.

BRIGGS & STRATTON CORPORATION,

Defendant.

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

2018 DEC 18 PM 4:37

8:10CV187 OFFICE OF THE CLERK

JUROR QUESTION A

Questions for Mr. Dorn:

8:10CV187

Mr. Dorn stated yesterday that due to the competing offers from Briggs, exmark was forced to reduce their prices in order to retain Brickman's business by quote: "\$550 to \$560".

No qualifier was provided, so presumably \$550-560 per unit.?

- ☐ Approximately how many units was Brickman buying from exMark at this time?
- ☐ Can he quantify ~~how~~ the impact of the total loss in sales with Brickman?

★ ~~the jury is~~ We're left with no real appreciation of the magnitude of the \$550 price reduction had on exmark's profitability at the time — and into the ensuing years, as Mr. Dorn indicated.

A

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JUROR QUESTION B

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Can you explain the main difference between
net profit and incremental profit and why
it is important to this infringement of the patent.

~~Answer: Net profit is the profit after all expenses are subtracted from the total revenue. Incremental profit is the profit from a specific product or service.~~

B

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JUROR QUESTION C

Current Questions

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- What was the average cost to produce said front baffle for Exmark & Briggs (for 1999 & 2004-2010)
 - Price of steel, paint, labor involved
 - What is cost vs Retail of each machine w/ said baffle?
- ★ Can we have MS. Bennis' first 2 slides shown/ explained or provided as an exhibit?
 - The jury was unable to view these.
- How much did the other companies that Exmark sued settled for?
 - What years?
 - (Scag mentioned, what about the others?)
- How much time & money went into redesign of front baffle? (Briggs)
- Have profits from infringed mowers been given to employees as bonuses of any kind? If so, how much was given?

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JUROR QUESTION D

Questions

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① When Wenzell obtained Lazer Z in 1996, (which at the time was "patent pending") were the pending patent(s) explained/pointed out/shown to him?

② Did anyone ^{within} ~~Briggs~~ Briggs (etc), in 2000 or look into patent #'s on Lazer Z, or were they still going off assumptions (if answer to ① was "no")

(simplifying/FERRIS)
• Was it assumed the ^{Flow control} ~~baffle~~ was the industry norm?

③ When was the mower with all 20 patent #'s obtained?

• Did Wenzell study the Exmark literature or merely glance or casually read them?
- Did someone in marketing study them?
• Has no one pointed it out prior to lawsuit?

• Have Exmark or Briggs lost business/annual revenue as a result of the infringement lawsuit?

• Did Briggs recall & replace/fix/remove baffle on any infringing mowers, or would that put the company at more of a loss? If so, how much?

I thought he came up with the shape?

D